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(d) For the purposes of paragraph (b)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(1) Would cause a licensee, certificate holder, quality assurance program approval holder or applicant for a license, certificate, or quality assurance program approval to be in violation of any rule, regulation, or order; or any term, condition, or limitation, of any license or certificate issued by the Commission; or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, certificate holder, quality assurance program approval holder, applicant, or the contractor or subcontractor of any of them.

[63 FR 1899, Jan. 13, 1998]

Subpart C—General Licenses

§ 71.12 General license: NRC-approved package.

(a) A general license is hereby issued to any licensee of the Commission to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.

(b) This general license applies only to a licensee who has a quality assurance program approved by the Commission as satisfying the provisions of subpart H of this part.

(c) This general license applies only to a licensee who—

(1) Has a copy of the certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;

(2) Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of subparts A, G, and H of this part; and

(3) Submits in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, before the licensee's first use of the package, the licensee's name

and license number and the package identification number specified in the package approval.

(d) This general license applies only when the package approval authorizes use of the package under this general license.

(e) For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of § 71.13.

§ 71.13 Previously approved package.

(a) A Type B package previously approved by NRC but not designated as B(U) or B(M) in the identification number of the NRC Certificate of Compliance, may be used under the general license of § 71.12 with the following additional conditions:

(1) Fabrication of the packaging was satisfactorily completed by August 31, 1986, as demonstrated by application of its model number in accordance with § 71.85(c);

(2) A package used for a shipment to a location outside the United States is subject to multilateral approval, as defined in DOT regulations at 49 CFR 173.403; and

(3) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

(b) A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the designation “-85” in the identification number of the NRC Certificate of Compliance, may be used under the general license of § 71.12 with the following additional conditions:

(1) Fabrication of the package is satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with § 71.85(c);

(2) A package used for a shipment to a location outside the United States is subject to multilateral approval as defined in DOT regulations at 49 CFR 173.403; and

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(3) A serial number which uniquely identifies each packaging which conforms to the approved design is assigned to and legibly and durably marked on the outside of each packaging.

(c) NRC will approve modifications to the design and authorized contents of a Type B package, or a fissile material package, previously approved by NRC, provided—

(1) The modifications of a Type B package are not significant with respect to the design, operating characteristics, or safe performance of the containment system, when the package is subjected to the tests specified in §§ 71.71 and 71.73;

(2) The modifications of a fissile material package are not significant, with respect to the prevention of criticality, when the package is subjected to the tests specified in §§ 71.71 and 71.73; and

(3) The modifications to the package satisfy the requirements of this part.

(d) NRC will revise the package identification number to designate previously approved package designs as B(U), B(M), AF, BF, or A as appropriate, and with the identification number suffix “-85” after receipt of an application demonstrating that the design meets the requirements of this part.

§ 71.14 General license: DOT specification container.

(a) A general license is issued to any licensee of the Commission to transport, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in DOT regulations at 49 CFR parts 173 and 178.

(b) This general license applies only to a licensee who has a quality assurance program approved by the Commission as satisfying the provisions of subpart H of this part.

(c) This general license applies only to a licensee who—

(1) Has a copy of the specification; and

(2) Complies with the terms and conditions of the specification and the applicable requirements of subparts A, G, and H of this part.

(d) This general license is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States, except by multilateral approval, as defined in DOT regulations at 49 CFR 173.403.

§ 71.16 General license: Use of foreign approved package.

(a) A general license is issued to any licensee of the Commission to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by DOT as meeting the applicable requirements of 49 CFR 171.12.

(b) Except as otherwise provided in this section, the general license applies only to a licensee who has a quality assurance program approved by the Commission as satisfying the applicable provisions of subpart H of this part.

(c) This general license applies only to shipments made to or from locations outside the United States.

(d) This general license applies only to a licensee who—

(1) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and

(2) Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements of subparts A, G, and H of this part. With respect to the quality assurance provisions of subpart H of this part, the licensee is exempt from design, construction, and fabrication considerations.

§ 71.18 General license: Fissile material, limited quantity per package.

(a) A general license is issued to any licensee of the Commission to transport fissile material, or to deliver fissile material to a carrier for transport, without complying with the package standards of subparts E and F of this part, if the material is shipped in accordance with this section.